IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1649 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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BHARTIBEN THAKORDAS TAILOR - Petitioner(s)
Versus
MAMLATDAR, JALALPORE - Respondent(s)

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Appearance :
MR UTPAL M PANCHAL for Petitioner(s) : 1,
MR KRUNAL D PANDYA, AGP for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 26/03/2007

ORAL JUDGMENT

In this petition the petitioner has prayed for writ of mandamus directing the respondent – Mamlatdar to issue the birth certificate. According to

the petitioner, she was born on 13/4/1953 and she, therefore, applied for issuance of birth certificate. Her request was not acceded to. It further appears that the mother of the petitioner submitted an application to the Ld. Judicial Magistrate First Class at Navsari, under section 13(3) of the Registration of Births & Deaths Act, but the said application was also rejected on the ground that the Ld. Magistrate had no jurisdiction. It is now submitted in this petition that the petitioner has adequate authentic proof regarding her birth date and on the basis of the same, the certificate can be issued. Earlier in response to her application, the Mamlatdar, Jalalpore, by his communication dated 11/3/2005 informed the petitioner that since the record of village Kothmadi, which is her birth place, was destroyed in fire, her birth certificate could not be issued.

It is submitted by Mr. Devarshi Shah, learned advocate for Mr. UM Panchal for the petitioner that when there is authentic data available with regard to the birth date of the petitioner and which is duly produced before the Mamlatdar, he cannot refuse to issue necessary birth certificate. Mr. Krunal D Pandya, Ld. AGP submits that unless there is direction from this Court, the Mamlatdar has no authority to issue fresh certificate.

Having considered the contents of the petition together with annexures and having kept in view the submissions of the learned advocates for the parties, it appears that when there is authentic material available with the

petitioner, on the basis of which the Mamlatdar can issue birth certificate, there is no reason why he should refuse to do it. The petitioner has school leaving certificate of Shri B U Master Sarvajanik High School and Shri B D Patel Higher Secondary School dated 7/1/2005, where she was admitted on 13/6/1966. She left the school in the year 1970. On her leaving the school, certificate was prepared, which is sought to be produced to confirm her birth date. From the petition it further appears that she has the identity card issued by the Election Commission and also the details of her family issued by the Talati-cum-Mantri wherein her birth date is shown as 13/4/1953. In view of the same, the following directions are given :-

I. The petitioner shall submit fresh application along with the school leaving certificate and other authentic data about her birth date to the Mamlatdar within three weeks from the date of this order.

II. Upon receipt of such application along with necessary material, respondent no. 1 – Mamlatdar shall issue birth certificate in accordance with the said data within eight weeks from the date of the submission of the application, provided nothing objectionable is found.

With these directions, the petition is allowed. Rule is made absolute. Direct Service is permitted.

[Akshay H Mehta, J.]

* Pansala.